TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 261.

THE GOAT AND SHEEPSKIN IMPORT COMPANY,
PETITIONER,

vs.

THE UNITED STATES.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

PETITION FOR CERTIORARI FILED APRIL 20, 1906.
CERTIORARI AND RETURN FILED MAY 9, 1906.

(20,206.)

(20,206.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 261.

THE GOAT AND SHEEPSKIN IMPORT COMPANY, PETITIONER,

vs.

THE UNITED STATES.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

INDEX.

	Original.	Print.
Caption	a	1
Transcript from the circuit court of the United States for the southern district of New York	1	1
Order of court to return record, &c.	1	1
Petition and bond	2	1
Return of record, evidence, and facts	14	6
Exhibit A—Copy of one protest	16	7
B—Collector's report on protest	18	8
C—Report of United States appraiser	19	9
D—Evidence taken before board of general appraisers	20	9
Testimony of A. Helmrath	21	10
Ammon P. Souls	29	14
Charles L. Klauder	32	17
E. S. Parkhurst	37	20
Lazarus Simon	41	23
Robert N. Kitching	45	25

& Detweiler (Inc.), Printers, Washington, D. C., October 2, 1906.

	Original.	Print.
Exhibit E—Evidence taken before board of general appraisers	48	27
Testimony of A. Helmrath	48	27
F—Decision of board of general appraisers	50	28
G—Copy of G. A. 4593 (T. D. 21737), referred to in board's decision	51	29
Return of further evidence	57	32
Testimony of John G. Duffy	58	32
Bernard W. Weiler	59	33
George B. Ritchie	65	37
Opinion, Townsend, J	70	39
Judgment of reversal	71	40
Application for and allowance of appeal	73	41
Assignment of errors	75	42
Bond for costs	78	43
Citation	80	45
Clerk's certificate	81	45
Opinion *per curiam*	83	46
Decree	84	46
Clerk's certificate	86	47
Writ of certiorari	87	47
Stipulation as to return to writ of certiorari	90	48
Return to writ of certiorari	91	48

a United States Circuit Court of Appeals for the Second Circuit.

(3641.)

THE GOAT AND SHEEPSKIN IMPORT COMPANY, Appellant,
vs.
THE UNITED STATES, Appellee.

Transcript of Record.

Appeal from the Circuit Court of the United States for the Southern District of New York.

1 *Order.*

At a Stated Term of the United States Circuit Court for the Southern District of New York, held in the United States Court in the Post Office Building in the City of New York, Borough of Manhattan, on the — day of August, 1904.

Present: Hon. E. Henry Lacombe, Circuit Judge.

In the Matter of The Application of the GOAT & SHEEPSKIN IMPORT COMPANY for a Review of the Decision of the Board of United States General Appraisers upon Certain Merchandise Imported by said Company on the Vessels and Entered on the Dates Named in the Accompanying Schedule.

On reading and filing the petition of the Goat & Sheepskin Import Company, dated the 17th day of August, 1904, and on motion of Hatch, Keener & Clute, attorneys for the petitioners, it is

Ordered that the Board of United States General Ap-
2 praisers, sitting at the Port of New York, return to this Court the record and the evidence taken by them in the above matter, together with a certified statement of the facts involved in their decision thereon.

E. H. LACOMBE,
United States Circuit Judge.

Petition.

United States Circuit Court, Southern District of New York.

In the Matter of The Application of the GOAT & SHEEPSKIN IMPORT COMPANY for a Review of the Decision of the Board of United States General Appraisers upon Certain Merchandise Imported by said Company on the Vessels and Entered on the Date- Named in the Accompanying Schedule.

To the Circuit Court of the United States for the Southern District of New York:

The petition of the Goat & Sheepskin Import Company respectshows, and the said petitioners allege:

That the Goat & Sheepskin Import Company is a corporation organized under the laws of the State of New York, and doing business at No. 28 Spruce Street, in the City of New York.

3 That under such corporate name the said company imported and entered at the Port of New York certain merchandise, described in the schedule hereto annexed, at the times therein mentioned.

That thereafter the Collector at said port proceeded to ascertain, fix and liquidate the amount of duties to be paid on said merchandise under the provisions of an Act of Congress, entitled, "An Act to provide the revenue for the Government, and to encourage the industries of the United States," approved, and which took effect on the 24th day of July, 1897, and which rate and amount was in excess of the rate and amount required by law to be paid thereon under the said Act.

That your petitioners being dissatisfied with the decision of the said Collector as to the rate and amount so fixed, within ten days after, but not before said ascertainment and liquidation of duties, gave notice in writing to the Collector setting forth therein distinctly and specifically in respect to each entry and payment, the reasons for their objections thereto, and paid the full amount of the duties and charges ascertained to be due thereon.

That thereafter the said Collector transmitted the invoice and all papers and exhibits connected therewith to the Board of United States General Appraisers, who within the past thirty days, and on or about the 21st day of July, 1904, as set forth in the following schedule, returned that they had examined and decided as to the said entries, and affirmed the decision of the said Collector.

That your petitioners are dissatisfied with said decision of the said Board of Appraisers as to the construction of the law, and as to the facts respecting the classification of such merchandise, and the rate of duty imposed thereon under such classification, and that the following is a concise statement of the errors of law and fact complained of:

4 *Errors of Fact.*

First. The Board of United States General Appraisers erred in finding, directly or by implication, that the substance on the skins in question was wool, and in not finding on the contrary that it was hair.

Second. The Board erred in not finding that the evidence in this case was unanimous, uniform, undisputed and uncontroverted, that the substance on the skins in question consisted of hair, as distinguished from wool, both as a matter of fact, and according to trade and commercial uses.

Third. The Board erred in finding that the substance on the skins in question could be carded.

Fourth. The Board erred in holding, either directly or by implication, that the merchandise in question was of the same character as that which was the subject of G. A. 4593.

Errors of Law.

First. The Bord of United States General Appraisers erred in holding that the substance on the said skins was classifiable and dutiable as assessed at three cents per pound under the provisions of paragraphs 358 and 360 of the Tariff Act of July 24, 1897.

Second. The Board erred in not holding that the merchandise in controversy was entitled to free entry under the provisions of paragraph 664 of said act.

Third. The Board erred in not holding that the substance on the skins in question was free of duty under the provisions of Paragraph 571 of said act, if not entitled to free entry under the provisions of Paragraph 664 of said act.

Fourth. The Board erred in holding that the question involved was the same as that settled in G. A. 4593, and in considering the evidence in G. A. 4593.

Fifth. The Board erred in following and in not distinguishing G. A. 4593, and Lyon *vs.* Marine, 55 Fed. Rep., 964.

Sixth. The Board erred in overruling the protests and affirming the decision of the Collector, and in not sustaining the protests and reversing the decision of the Collector.

The following is a description of the importations embraced in this petition, namely:

SCHEDULE.

Description of merchandise.	Name of vessel.	Date of entry.	Protest number.	Date of decision.
Sheepskins with hair.	Manitou	Nov. 17/99,	66335 F 3024	July 21, 1904
" "	Beatrice	Mch. 29/00,	69511 F 7096	"
" "	Sempione	May 11/00,	71195 F 9294	"
" "	Archimede	June 27/00,	72879 F 10987	"
" "	Albazia	Aug. 2/00,	75331 F 13332	"
" "	Marquette	June 1/00,	76571 F 14006	"
" "	Mesaba	Sept. 18/00,	77590 F 15432	"
" "	Europe	Sept. 5/00,	77591 F 14534	"
" "	Laureldene	Aug. 8/00,	77760 F 14104	"
" "	Minneapolis	May 21/00,	77812 F 14811	"
" "	Belgravia	Oct. 5/00,	78420 F 16561	"
" "	Manitou	Nov. 8/00,	79038 F 17211	"
" "	Mesaba	Oct. 26/00,	79247 F 17210	"
" "	Graf Waldersee	Oct. 29/00,	79248 F 17212	"
" "	Mesaba	Nov. 27/00,	79982 F 18383	"
" "	Minnehaha	Dec. 19/01,	80850 F 761	"
7 " "	Patria	Dec. 31/00,	81428 F 1140	"
" "	Kaiser Wilhelm	Dec. 18/00,	82563 F 2570	"
" "	Pennsylvania	Dec. 26/00,	82779 F 2387	"
" "	Bulgaria	Feb. 9/01,	82780 F 2571	"
" "	Tartar Prince	Feb. 14/01,	83236 F 2778	"
" "	Hesperia	Mch. 13/01,	86542 F 6610	"
" "	Hudson	Mch. 21/01,	86543 F 6611	"
" "	Spartan Prince	Jan. 26/01,	87471 F 2050	"
" "	Marco Minghetti	May 28/01,	88131 F 8577	"
" "	Anchoria	Sept. 20/01,	92794 F 13956	"
" "	"	Oct. 28/01,	92795 F 13957	"
" "	Ethiopia	Nov. 14/01,	94891 F 15726	"
" "	Astoria	Jan. 9/02,	97084 F 1652	"

SCHEDULE—*Continued.*

	Description of merchandise.	Name of vessel.	Date of entry.	Protest number.	Date of decision.
	Sheepskins with hair.	Menominee.....	Nov. 27/01,	97501 F 2413	July 21, 1904.
	" "	. Mesaba.....	Apr. 29/01,	98643 F 6056	"
	" "	. Perugia.....	Mch. 6/02,	99595 F 4581	"
	" "	. Bolivia.....	Mch. 17/02,	45 H 4224	"
	" "	. Rhein.....	Mch. 19/02,	46 H 4225	"
	" "	. Grosser Kurfurst	Apr. 25/02,	935 H 5660	"
	" "	. Citta di Milano..	Apr. 14/02,	936 H 5661	"
	" "	. Anchoria.....	Apr. 16/02,	937 H 5809	"
8	" "	. Phœnicia.....	May 5/02,	2503 H 6662	"
	" "	. Furnessia.....	June 30/02,	2564 H 7350	"
	" "	. Columbia	June 25/02,	5274 H 10152	"
	" "	. Perugia.....	Aug. 23/02,	6929 H 12073	"
	" "	. Hesperia	Sept. 10/02,	8506 H 13482	"
	" "	. Anchoria.....	Sept. 24/02,	8898 H 13876	"
	" "	. Karamania.. . .	Oct 29/02,	8899 H 15016	"
	" "	. America.....	July 7/02,	10378 H 16408	"
	" "	. Minneapolis.....	Nov. 11/02,	11140 H 17214	"
	" "	. Roma	Nov. 11/02,	11141 H 17215	"
	" "	. Menominee.....	Oct 11/02,	11792 H 16409	"
	" "	. Verona.....	Oct. 18/02,	11793 H 16837	"
	" "	. Citta di Milano..	Nov. 2/02,	11794 H 16838	"
	" "	. Victoria.	Dec. 4/02,	14409 H 2139	"
	" "	. Citta di Milano..	Dec. 27/02,	14410 H 2140	"
	" "	. Hillglen.....	Dec. 13/02,	16552 H 3200	"
	" "	. Minnehaha.....	Nov. 26/02,	16553 H 4057	"
	" "	. Liguria.....	Jan. 5/03,	16914 H 2346	"
	" "	. Phœnicia.....	Mch. 17/03,	18590 H 8924	"
9	" "	. Germanic.	Apr. 10/03,	20737 H 10491	"
	" "	. Citta di Milano..	Apr. 18/03,	20738 H 10493	"
	" "	. Ravenna.	Feb. 9/03,	20830 H 5297	"
	" "	. Neckar..	Feb. 16/03,	20831 H 6346	"
	" "	. Sicilia.....	Feb. 6/03,	20832 H 7301	"
	" "	. Minnetonka	Apr. 3/03,	22502 H 10492	"
	" "	. Minneapolis.....	Apr. 10/03,	22503 H 11149	"
	" "	. Regina Elina...	Mch. 24/03,	22504 H 11151	"
	" "	. Minneapolis....	Apr. 10/03,	22505 H 11151	"
	" "	. Citta di Milano..	July 22/02,	24538 H 10746	"
	" "	. Umbria.... ...	June 18/03,	24539 H 14689	"
	" "	. Minneapolis....	Aug. 1/00,	25846 H 14105	"
	" "	. Hohenfels.	July 9/03,	25837 H 16470	"
	" "	. Anchoria.	June 15/03,	27089 H 16092	"
	" "	. Menominee ...	July 30/03,	28033 H 18822	"
	" "	. Germania.....	Aug. 20/03,	29986 H 20279	"
	" "	. Lombardia.....	Aug. 20/03,	29987 H 20760	"
	" "	. Liguria.....	Sept. 3/03,	101511 / 22200	"
	" "	. Princess Irene..	Sept. 10/03,	101512 / 23453	"
	" "	. Roma	Oct. 23/03,	109459 / 26471	"
	" "	. Minnehaha.....	Nov. 24/03,	111660 / 3200	"
10	" "	. Monvine.....	Dec. 16/03,	111611 / 3224	"
	" "	. Coastwise	Apr. 9/03,	113105 / 1982	"
	" "	. Carpathia.....	Jan. 7/04,	113106 / 5193	"
	" "	. Vincenzo Florio.	Dec. 24/03,	113112 / 4266	"
	" "	. Main.	Dec. 23/03,	113113 / 4267	"
	" "	"	Dec. 21/03,	113114 / 4285	"
	" "	. Vincenz › Florio.	Dec. 18/03,	113115 / 4286	"
	" "	. Prinz Oskar	Dec. 28/03,	113116 / 5010	"
	" "	. Lombardia	Jan. 22/04,	118195 / 6520	"
	" "	. Georgic	Jan. 28/04,	118196 / 7445	"
	" "	. Palatia....	Feb. 9/04,	118327 / 8141	"
	" "	. Citta di Torina.	Feb. 29/04,	120269 / 10020	"
	" "	. Prinzess Irene..	Feb. 26/04,	120270 / 10024	"
	" "	. Mesaba	Feb. 16/04,	120643 / 8858	"

11 Wherefore, your petitioners pray that the said Circuit Court review the questions of law and fact involved in the decision of the Board of United States General Appraisers heretofore made in the above matter as to the classification and rate of duty assessed upon the merchandise, and for that purpose that an order may be entered requiring said Board of General Appraisers to return to the said Circuit Court the record and evidence taken by them, together with a certified statement of facts involved in the case, and their decision thereon; and your petitioners pray for such additional orders and relief as they may be entitled to in the judgment of this Court, and pursuant to the statutes of the United States in such case made and provided.

Dated New York, August 17, 1904.

GOAT & SHEEPSKIN IMPORT CO.,
Petitioners,
By HATCH, KEENER & CLUTE,
Their Attorneys.

HATCH, KEENER & CLUTE,
Attorneys for Petitioners,
#100 *Broadway, Manhattan Borough, New York City.*

Endorsed: U. S. Circuit Court. Filed Aug. 19, 1904. Southern District New York. John A. Shields, Clerk.

Bond.

Know all men by these presents, that I Vincent P. Donihee, residing at No. 147 West Sixty-first Street, in the Borough of Manhattan, and City of New York, am held and firmly bound
12 unto the United States of America, in the sum of Fifty ($50) Dollars to be paid *in* the United States of America, for the payment of which well and truly to be made, I bind myself, my heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with my seal and dated the 18th day of August, in the year nineteen hundred and four.

VINCENT P. DONIHEE.

Whereas, the Goat & Sheepskin Import Company has applied to the Circuit Court of the United States, for the Southern District of New York, for a review of the questions of law and fact involved in a certain decision of the Board of United States General Appraisers, made on certain merchandise imported by it, and entered in its name, on the vessels and entered on the dates named in the foregoing schedule.

Now, therefore, the condition of this obligation is such that if the said the Goat & Sheepskin Import Company shall prosecute said proceeding with effect, and pay all damages and costs which shall be awarded against it therein if it fails to made said proceedings good,

then this obligation to be void, otherwise the same shall be and remain in full force and effect.

VINCENT P. DONIHEE.

Sealed and delivered and taken and acknowledged this 18th day of August, 1904, before me.

GEORGE S. LUDLOW,
[SEAL.] *Notary Public, New York County.*

13 UNITED STATES OF AMERICA,
Southern District of New York,
County of New York, ss:

Vincent P. Donihee, being duly sworn, says: that he resides in the Southern District of New York, in the Borough of Manhattan, and City of New York, and that he is worth the sum of One hundred ($100) dollars, over and above all his just debts and liabilities.

VINCENT P. DONIHEE.

Sworn to before me this 18th day of August, 1904.

GEORGE S. LUDLOW,
[SEAL.] *Notary Public, New York County.*

The within bond approved.

E. H. LACOMBE,
U. S. Circuit Judge.

Endorsed: U. S. Circuit Court. Filed Aug. 19, 1904. Southern District New York. John A. Shields, Clerk.

14 In the Circuit Court of the United States for the Southern District of New York.

John E. Dowsing, Chief Clerk Board of U. S. General Appraisers. [Seal.]

Suit No. 3641.

In the Matter of GOAT & SHEEPSKIN IMPORT COMPANY
v.
UNITED STATES, Being an Application for Review of a Decision of the Board of United States General Appraisers.

Return of the Board of United States General Appraisers to the Order of Hon. E. Henry Lacombe, Circuit Judge.

Dated NEW YORK, *Jan.* 6, 1905.

The Board of United States General Appraisers, sitting at New York, in response to the order of the Court in the above matter, make the following return of the record and evidence taken by them in the above matter, and of the facts involved therein, as ascertained by them.

The record consists of:

(1) Protest 66335-F, marked Exhibit A.

(2) The report of the Collector of Customs made in transmitting said protest, marked Exhibit B.

(3) The report of the United States Appraiser, marked Exhibit C.

15 (4) A copy of the testimony taken by the Board March 17, 1904, marked Exhibit D.

(5) A copy of the testimony taken by the Board July 7, 1904, marked Exhibit E.

(6) A copy of the decision of the Board, marked Exhibit F.

(7) A copy of G. A. 4593 (T. D., 21737) referred to in the decision of the Board, marked Exhibit G.

(8) The other protests mentioned in the importers' petition, together with the reports of the Collector and the local appraiser relative thereto, which are transmitted herewith in an envelope, marked Exhibit H.

The samples referred to in the testimony will be returned under separate cover.

16 EXHIBIT A.

S. 3641.

66335 F.

28 & 30 Spruce Street, Goat & Sheepskin Import Co., Limited.

Cable Address, "Goatcomp."

NEW YORK, *March 3rd,* 1900.

Hon. Geo. R. Bidwell, Collector, Port of New York.

SIR: We hereby protest against the liquidation of your Entry No. 185966, per S/S "Manitou" from London Nov. 18th '99; liqd. 27/2/1900

ACT #596/81
B G
" " 2094/2103
S G
" " 2060/1
H G
" " 2399/2402
H K
" " 2100/1
E S
" " 3166/9
H S
" " 3557/9
M S
" " 1119/24
O S
" " #2641
SHS
" " 20/1
G S—47 bales dry skins—claiming that

17 the assessment of duty at 3¢ per lb. on wool is erroneous.

These skins are commonly called Arabian hair sheep but their character in every way resembles the Goat more than the Sheep. The growth on them is not wool but absolutely hair, and the fiber has nothing common with wool and could not be sold for wool. We have imported these skins for the past 15 years and they have never been assessed for duty on wool or any other reason until the arrival of the above lot.

We claim that they are free of duty as skins of all kinds raw under Par. 664 Tariff Act of July 24/97.

Looking to you for a return of the excess, we are,

Yours respectfully,

GOAT & SHEEPSKIN IMPORT CO., L'T'D,
A. HELMRATH, *Sec't'y.*

Send all notices to Hatch, Keener & Clute, 100 Broadway, New York.

Endorsed: Custom House, New York, Mar. 7 1900 Received.

18 EXHIBIT B.

S. 3641.

66335 F.

Letter to General Appraiser Submitting Protest.

United States Customs Service, Port of New York.

COLLECTOR'S OFFICE, *Apr.* 11, 1900.

Board of U. S. Gen'l Oppraisers at the Port of New York.

GENTLEMEN: I submit the Protest of Goat & Sheepskin Import Co. #3024 against the assessment of duty as made by this Office on certain so called "Dry skins" imported by them in the "Manitou" Nov. 18/99. An inspection of the invoice and entry shows that no duty has been assesssed on the skins. The wool on the skins was returned by the Appraiser as "Wool, Class 2, Unwashed." Duty was assessed upon the number of pounds of wool as returned by the Appraiser, at the rate of 3¢ per pound, under the provisions of Par. 358 and 360, Act of July 24/97.

Reference is made to the special report of the U. S. Appraiser, herewith, dated Mch. 21, 1900, as to the character of the merchandise.

I have to report that the claimants have complied with the requirements of Section 14 of the Act of June 10, 1890, so far as lodging protest within the statutory time.

The Naval Officer concurs in the decision of this Office.

The Entry and invoice covered by the above protest are inclosed herewith.

Respectfully yours,

J. J. COUCH,
Special Deputy Collector.

(6 Inclosures.)

Endorsed: Received by Board of U. S. General Appraisers, Apr. 14 1900.

19 EXHIBIT C.

S. 3641.

66335-F.

Office of the Appraiser of Merchandise, Port of New York, N. Y.

MARCH 21, 1900.

Appraiser of Merchandise, District of New York.

SIR: Replying to protest No. 3024 of Goat & Sheepskin Import Company, Limited, against the assessment of duty at the rate of 3¢ per pound on certain merchandise imported by them ex "Manitou," November 17, 1899, invoice No. 13009, entry No. 185966, I have to report as follows:

The merchandise under protest consists of Arabian sheepskins with class 3 wool thereon, which was returned for duty at 3¢ per pound under Paragraphs 358 and 360, N. T., in accordance with T. D. 21737—G. A. 4593.

The rules prescribed for ascertaining quantity of wool on sheepskins do not (and is believed in this office could not) cover all kinds of skins. The quantity of wool returned on such skins as those here under consideration must be determined by the exercise of the examiner's experience and knowledge.

Papers are herewith returned.

Respectfully, L. B. CARHART,
Assistant Appraiser, Fifth Division.

20 EXHIBIT D.

S. 3641.

Before the Board of U. S. General Appraisers.

Mocha Sheepskin.

Board No. 1.

In the Matter of the Protests of GOAT AND SHEEPSKIN IMPORTING Co., Nos. 66335-F, 69511, 71195, 72879, 75331, 76571, 77590, 77591, 77760, 77812, 78420, 79038, 79247, 79248, 79982, 80850, 81428, 82563, 82779, 82780, 83236, 86542, 86543, 87471, 88131, 92794, 92795, 94891, 97094, 97501, 98643, 99595.

NEW YORK, *March* 17, 1904.

Before General Appraisers Lunt and McClelland.

Appearances.

Chas D. Lawrence, Esq., Ass't Counsel Treasury Dep't.
J. S. Tompkins, Esq., Counsel for the Importers.

21 A. HELMRATH, called as a witness on behalf of the Importers, being duly sworn, testified as follows:

66335-F to 99595-F, inclusive.

By Mr. TOMPKINS:

Q. Are you connected with the Goat and Sheepskin Importing Co., importers of the merchandise covered by these protests?
A. I am secretary of the company.
Q. Are you familiar with all of the importations in question?
A. Yes, sir.
Q. Have you samples which fairly and accurately represent the goods on which you have protested?
A. I have (witness produces samples).
Q. Did you examine this merchandise as it came in?
A. Yes, sir.
Q. Is it your business as secretary of the company to examine the merchandise?
A. I looked at it all, I suppose.
Q. Did you formally open the bales?
A. Yes, sir.
Q. Open them up?
A. Yes, sir.
Q. And examine them?
A. Yes, sir.
Q. From what bale did you take that sample? What importation?
A. I could not give the date of the importation. The skins are all alike. There is no difference between the different importations. There are a great number of cases, and it would have been very awkwark to bring samples from each importation.

22 By General Appraiser MCCLELLAND:

Q. You cannot say that these came out of any of the——
A. Yes, sir, I can say that.

By General Appraiser LUNT:

Q. Well, what one?
A. (No answer.)

By Mr. TOMPKINS:

Q. How long has your firm been importing this class of skins?
A. Since '92.
Q. Can you tell me in what year these particular skins here were imported?
A. At the end of last year.
Q. End of 1903?
A. Yes.

By General Appraiser LUNT:

Q. There is a difference in those skins that you put up before us here. The last one you have on top appears to be differently haired from the others?
A. Yes, sir.

Q. Can you tell from what bale you took that upper one, the one with the longest hair?

A. These three skins came from one bale. They are mixed together and in about this proportion, about one-third of each length of hair as is represented here.

By Mr. TOMPKINS:

Q. For one of the skins which you now show to the Board, did you endeavor to get one of the very longest haired skins that you could find?

A. Yes, sir. This is one of the longest haired skins that I could find.

23 Q. And how about the other two samples that you present?

A. The next one is a medium hair, and the next one is a short haired skin—one of the shortest haired skins.

By General Appraiser MCCLELLAND:

Q. You took those three out of the same bale, you say?

A. Out of the same bale.

Q. And yet you do not know what bale it was?

A. Well, I can get the number of the bale by referring to the office.

By General Appraiser LUNT:

Q. Do you know what importation it was? Here are those importations.

A. Well, I could get that very easily by referring to the office, but I haven't got it in mind.

By Mr. TOMPKINS:

Q. What is the basis for your statement that these three skins accurately represent all the merchandise? What is the basis of your knowledge?

A. We picked these skins out, and gave them to Mr. Kitching, asking him whether they fairly represented the skins that are covered by our protests, and Mr. Kitching agreed that they did.

The three skins above referred to offered and received in evidence as Exhibits 1, 2 and 3, Protests 66335-F, &c. Exhibit 1 represents the long hair, Exhibit 2 the medium and Exhibit 3 the short hair.

Q. Do you know whether you have been required to pay duty on the hair on skins like Exhibit 2 and 3 as well as on the hair on Exhibit 1?

24 A. I believe we are required to pay duty only on the hair on Exhibit 1.

Q. So that Exhibit 1 really represents the merchandise in controversy in this case?

A. I believe so.

Q. Where do these skins come from?

A. Come from Hodeidah, Arabia.

Q. What are they known as?
A. They are known as mocha whitehead sheep.
Q. How long have they been so known?
A. I believe for twenty years or more.
Q. Are these whiteheads one variety of mocha sheep?
A. Yes.
Q. So that Exhibits 1 to 3 are whitehead sheepskins?
A. Yes.
Q. Are these three exhibits in the same condition as the condition in which you receive them and as imported?
A. Yes.
Q. What is the price of Exhibit 1 abroad?
A. The price varies according to the weight of the skin. I do not know just what the weight of this skin (Exhibit 1) would be.
Q. Is the price regulated or influenced by the quantity of hair on the skin?
A. None at all.

By General Appraiser LUNT:

Q. Don't it affect the weight?
A. The more hair there is on a skin the less money it will bring per weight.

By Mr. TOMPKINS:

Q. How do you account for that?
A. The more hair the poorer the skin.
25 Q. To whom do you sell the merchandise whitehead sheepskins like Exhibit 1?
A. We sell them to tanners of glove leather and of shoe leather.
Q. Do you sell the merchandise in the same condition as that in which it arrives in this country?
A. Yes, sir.
Q. Do you sell solely to tanners, or do you sell to others also?
A. We might sell them to speculator or dealer but he would sell them again to the tanners.

By General Appraiser MCCLELLAND:

Q. That is not the question what you might do; what do you do is the question he asked you.
A. Occasionally we sell them to a dealer in skins.

By Mr. TOMPKINS:

Q. Is it or is it not true that for many years prior to 1899 no duty was levied on the hair of whitehead sheepskins like Exhibit 1?
A. That is the fact.
Q. So the Government practice has changed in or about 1899?
A. Yes, sir.
Q. How was the substance of these skins like Exhibit 1 known in trade and commerce in this country on and prior to July 24, 1897?
A. I am not a dealer in wool and hair, so I could not answer this question from my knowledge.

Q. Do you know of your own knowledge whether the substance on those skins like Exhibit 1 is used as wool?
A. I do not know.

By Mr. LAWRENCE:

Q. Mr. Helmrath, referring to these exhibits which you have offered, do they come indiscriminately mixed in the bales of various grades?
26 A. What do you mean by grades?
Q. I understood you to say that these represented three grades, did you not?
A. No. What I meant to say is that they represent three lengths of hair.
Q. Well, those skins which contain three lengths of hair come indiscriminately mixed, do they not, in the bales?
A. Yes, sir.
Q. And is there any way by which you can designate the amount of each kind in those various bales?
A. I never have paid any attention to it. All I know about it is the amount of wool that Mr. Kitching returns as dutiable.
Q. For what principal purposes do you say you sold the hair on those skins?
A. I do not sell the hair.
Q. Do you know for what purposes they are used—the hairs?
A. Do I know?
Q. Yes.
A. I do not know.
Q. To what concerns do you sell them?
A. We sell them to tanners of shoe leather and glove leather.
Q. Do you sell them to any manufacturers of saddlery?
A. No, sir.

By General Appraiser MCCLELLAND:

Q. Did you take these three samples from the bale yourself?
A. Yes, sir.
Q. Why did you make the selection of the long, medium and short hair?
A. I meant to give as accurate a sample of the skins as they run as I could conscientiously do.
Q. Did you make an investigation before you concluded to
27 bring these three samples as to which of them had been assessed for duty?
A. I have been familiar with the matter since 1899 and I have seen every return of every invoice and I had fair knowledge of what skins Mr. Kitching returned as dutiable.
Q. Are you able to say that wool duty was assessed on any one of these three samples, or that is was not assessed on all three?
A. All I know about that question is what Mr. Kitching has told us, and that is that wool would be assessed on Exhibit 1 and not Exhibits 2 and 3.
Q. That you learned since you went on the witness stand to-day, didn't you?

A. No, sir; I have been familiar with that for some years.
Q. Did you submit these three samples to Mr. Kitching before you produced them here on the witness stand?
A. Yes, sir.
Q. And did you consult with him as to which of the three he had assessed for wool?
A. No, sir; I sent a clerk with the three samples to Mr. Kitching, and I did not see him personally at all. Mr. Kitching's word——
Q. Will you tell me why you brought the two that are marked there Exhibits 2 and 3?
A. Because I wished to represent the skins as they run as we receive them .
Q. Did you know at the time you selected them from the bale that they had not been assessed for duty for wool too?
A. I presumed that they had not.
Q. You simply presumed it?
A. (No answer.)
Q. Do you know how many skins there were in the bale that you picked these samples from that were of the same grade as Exhibit 1?
A. No, I couldn't give you any accurate——
28 Q. Or how many of the other grades, 2 and 3?
A. No, I couldn't give you any figures.

By General Appraiser LUNT:

Q. Did you make this examination of that bale alone?
A. No, sir; there is a gentleman here who examined the bales with me.
Q. But your examination was only devoted to picking out these particular skins?
A. Yes, sir.
Q. And exhibits to show what Mr. Kitching——
A. Yes, sir.

By General Appraiser MCCLELLAND:

Q. Do you know as a fact that Exhibit 1 was assessed for wool duty?
A. I was not present.
Q. I am not asking what you suppose; I am asking if you know?
A. I do not know; I was not present when they were looked over. I do not know what Mr. Kitching thought about that.

By Mr. TOMPKINS:

Q. Is it a fact that you have been compelled to pay duty on the hair on mocha whitehead sheepskins covered by these protests?
A. Yes, sir; we have to pay duty.

29 AMMON P. SOULS, called as a witness on behalf of the Importers, being duly sworn, testified as follows:

By Mr. TOMPKINS:

Q. What is your business?
A. We are in the hair and wool business.

Q. How long have you been engaged in that business?
A. Eleven or twelve years.
Q. Do you handle skins like Exhibit 1?
A. No, sir.
Q. Do you purchase from Mr. Helmrath, who has just testified, the hair of whitehead sheepskin?
A. No; we buy it from tanners.
Q. Will you look at Exhibit 1 and state whether or not you deal in an article like the substance on that skin?
A. (Witness examining Exhibit 1.) Yes, we do; we handle a great deal of it.
Q. What is it?
A. Mocha hair.
Q. How long have you handled it?
A. Why, ever since I have been with the concern, eleven or twelve years. They have handled it before that.
Q. Under what name do you buy it?
A. Mocha hair.
Q. Under what name do you sell it?
A. Either as mocha hair or as hair.
Q. How long has that been true?
A. Well, to my knowledge eleven or twelve years.
Q. You say you handle wool also?
A. Oh, yes.
Q. Isn't hair like that on Exhibit 1 sometimes bought and sold as wool?
A. No.
Q. Is it used in trade and commerce as wool?
A. No.
Q. Never has been?
A. Not to my knowledge.
Q. Can it not be used as wool?
A. Why no; it is hair.
Q. Please explain why it cannot be used as wool?
A. Why, it is a hair; it has not the wool fibre at all.
Q. Is your business as a hair and wool dealer confined to this locality alone, New York City?
A. No, no, we sell all over the country.
Q. And is that trade designation hair that you have spoken of definite, general and uniform, or not?
A. That is the general term all over.
Q. There was no difference on and prior to July 24, 1897, from the present practice?
A. Oh, no.
Q. Please explain what the differences are between hair and wool, commercially speaking.
A. Well, hair is a smooth fibre, and wool you will find will be a barbed fibre.

By General Appraiser McCLELLAND:

Q. To what extent have you used and for what purposes this so-called mocha hair?

A. Why, we have handled car after car of it; a great deal of it.

By General Appraiser LUNT:

Q. To whom do you sell?
A. Stuffing manufacturers.
Q. Is it used anywhere in any mills to spin?
A. Why, it has been tried, but very little.
Q. Is it used sometimes by carpet manufacturers?
A. Well, it may, in a small way.
Q. Where have you sold any of it to any manufacturers?
31 A. Well, I don't know.
Q. Can't you name any?
A. I don't know as we would care to tell our customers. My competitors are right here.

Counsel for the importers objects to the question as being irrelevant and immaterial, but has no objection to the Board asking what those manufacturers make to whom the witness sold.
Objection overruled. Exception.

A. E. L. McLain Mfg. Co.

By General Appraiser MCCLELLAND:

Q. What is their business?
A. Manufacturers of sweat pads for horses.

By General Appraiser LUNT:

Q. Who else?

Counsel for importers requests that other witnesses be required to leave the room during this testimony.
Request refused by the Board, on the ground that the matter is not of sufficient importance.

By General Appraiser LUNT:

Q. What other manufacturers of other classes of goods do you sell to?
A. We have sold it to bed manufacturers.
Q. Used for stuffing purposes?
A. Yes.
Q. Do you sell any to manufacturers who spin yarn?
A. I can't recall any now.

32 By Mr. LAWRENCE:

Q. Does this hair possess any wool-y characteristics?
A. I don't know of any.
Q. Do you know if it can be carded?
A. Oh, yes, it can be carded.
Q. It can be?
A. Oh, yes; card most anything.
Q. Well, I mean it is susceptible of being carded and made into yarn, is it not?
A. I think it can be made into yarn, yes.

Q. Do you know whether it ever has been?
A. I think it has been tried; couldn't be used alone anyway; couldn't spin it alone.

CHARLES L. KLAUDER, called as a witness on behalf of the importers, being duly sworn, testified as follows:

By Mr. TOMPKINS:

Q. What is your occupation?
A. I am a tanner.
Q. How long have you been a tanner?
A. About seven years.
Q. Your place of business is where?
A. Philadelphia.
Q. Do you, in the course of your business, handle merchandise like Exhibit 1?
A. I do.
Q. Have you bought whitehead mocha sheepskins like Exhibit 1 from the Goat and Sheepskin Importing Co.?
A. I have.
Q. For how long?
A. For about six years.
33 Q. What do you do with skins like Exhibit 1 after you purchase them?
A. We soak them, put them in lime about two weeks, and then take the hair off them after we take them from the lime.
Q. What do you do with the hair after taking it off?
A. We wash the lime out of it, dry it and sell it to dealers.
Q. Under what name do you sell it?
A. Hair.
Q. How long have you sold it as hair?
A. From the beginning—for six years, for about six years.
Q. Has it ever been sold by you as wool?
A. No, never.
Q. Have you ever handled wool by itself?
A. Oh, yes.
Q. To what extent?
A. To a large extent. I was in the dyeing business previously.
Q. During what period were you in the wool dyeing business?
A. Twenty years.
Q. Can you give the dates—from what year to what year?
A. Yes; I started on December 1, 1878, and stopped in March—I don't know the date—1899.
Q. While in the wool dyeing business did you handle all sorts and varieties of wool?
A. Principally the finer wools.

By General Appraiser LUNT:

Q. Did you handle wool or did you handle yarns?
A. Yarns.
Q. Not wool?
A. Not wool; not raw wool.

34 By Mr. TOMPKINS:

Q. To what class of merchants or dealers do you sell the substance on skins like Exhibit 1?

A. To hair dealers.

Q. Exclusively?

A. To hair and wool dealers.

Q. Do wool dealers handle hair as well as wool?

A. To my knowledge.

Q. To your knowledge they do or do not?

A. They do, they handle both wool and hair.

Q. What is the basis of your knowledge on that?

A. I sell them wool that I take from skins as well as the hair, to the same dealers.

Q. So that from certain skins you obtain wool and from other skins you obtain hair, is that correct?

A. That is correct; and sell to the same dealers.

Q. Do you not sometimes sell the substance on mocha sheepskins like Exhibit 1 as wool as distinguished from hair?

Q. No, I always sell it as hair; I couldn't sell it as wool.

Q. Why not?

A. Because they would not buy it as wool; they would tell me it wasn't wool; they would contradict me and say it is hair.

Q. You say you sell some merchandise as wool and other merchandise as hair—what is the distinction?

A. Only distinction I know is from the feel and from the appearance of it.

Q. State what conclusions you draw from the feel and appearance of the substance on Exhibit 1?

By General Appraiser MCCLELLAND:

Q. To what extent have you handled raw wool?

A. Only as a tanner.

35 Q. Have you handled raw wool pelts to any extent?

A. To the extent of taking it off the pelts, washing it and selling it.

Q. (Mr. Tompkins' last question read to witness by stenographer.)

A. Coarse, stubby, bristlelike I would call hair. Soft, pliable, curly I would call wool.

By General Appraiser LUNT:

Q. Look at the wool up here at the neck (Exhibit 1); examine the skin and just feel of the belly.

A. (Witness examining.) I would call that hair all over that skin.

By General Appraiser MCCLELLAND:

Q. Everything found on that skin you call hair?

A. Yes.

By Mr. TOMPKINS:

Q. It has none of the appearance of wool?

A. None whatever.

Q. Has it any of the feel of wool as distinguished from hair?
A. Not in the least.

By General Appraiser McCLELLAND:

Q. Did I understand you to say that you had sold hair similar to that you say you found on Exhibit 1 to hair and wool dealers?
A. Yes, sir.
Q. For what purpose did you sell it to wool dealers?
A. I don't know really what they did with it after they bought it from me.
Q. Were they manufacturers?
A. No. I sold it generally to dealers. I do not remember
36 ever selling any of this to manufacturers, although I have sold hair and wool to manufacturers; that is, goat hair.
Q. You don't remember having sold hair similar to this?
A. To manfacturers, no, I have not any recollection that I ever did.
Q. Sold to jobbers?
A. To dealers, yes, jobbers or dealers.
Q. You do not know for what purpose it was used after leaving your hands?
A. No.

By General Appraiser LUNT:

Q. I understand this to be sheepskin?
A. Oh, yes; I buy it for sheepskin.
Q. Call it mocha sheep?
A. Whitehead mocha sheep, that is what it is called.
Q. Are you familiar with East India sheep?
A. Yes, sir.

By Mr. TOMPKINS:

Q. Do you find any of those with coarse fibre on?
A. Yes, sir.
Q. Similar to this?
A. Well, worse than that—shorter and stubbier.
Q. Do you find any sheepskins with a similar fibre to this where the sheep are grown in other countries?
A. No, I don't think I have seen any.
Q. Is this sort of cost to sheepskins found largely in sheep grown in hot countries?
A. Yes, sir.
Q. Their coating instead of being fine is coarse and hairy?
A. Yes, sir.
37 Q. Do you buy the mocha sheepskins for the pelt or for the hair?
A. I buy them solely for the pelt—to manufacture leather out of the pelt.
Q. Do you buy as much for short haired mocha sheepskins as for the longer haired ones?
A. We buy about the same.

Q. Which, if either, do you prefer to buy—the short haired or the longer haired ones?

A. The short haired.

Q. What do you get for the hair, after you wash it and take it off the skin?

A. Three to five cents per pound according to the length of the hair and the color of the hair.

Q. That is what it sells for at wholesale?

A. Yes, about the price.

Q. Does or does not the hair lose in weight in the process through which you put it?

A. It loses in the process of liming and also in washing; it loses in weight.

Q. How much does it lose in weight?

A. Ten to fifteen per cent. in both processes, about ten to fifteen per cent.

Q. What is the value of the labor that you put upon this hair of the mocha sheepskin per pound?

A. The labor is in excess of what we get for the hair. The labor in taking the hair off the skin and washing it and drying it does not pay for the labor to take it off and handle it—the price we get for the hair does not pay for the labor.

E. S. PARKHURST, called as a witness on behalf of the Importers, being duly sworn, testified as follows:

By Mr. TOMPKINS:

Q. What is your business, Mr. Parkhurst?

A. Dealer in hair and wool and also wool puller.

Q. What is the style of your firm?

38 A. The D. M. Smith Company.

Q. Where is your place of business?

A. Gloversville, New York.

Q. Does your firm handle extensively a hair like that in Exhibit 1?

A. (Examining Exhibit 1) Yes, sir.

Q. About how much of the mocha hair in this country is handled by your firm?

A. Why, I couldn't say exactly, except that I know that a large part of the mocha skins that are imported in this country are used in the manufacture of glove leather; all that stock that is manufactured in glove leather practically it is done by us.

Q. About how large a part?

A. About, I should say, seventy-five to ninety per cent., roughly.

Q. How long have you so handled it?

A. Nineteen years.

Q. Under what name or names do you buy it and sell it?

A. Buy it as mocha hair and sell it as mocha hair.

Q. Has that always been true?

A. Yes.

Q. During your business experience?
A. Yes.
Q. Your experience has lasted how long?
A. Nineteen years this summer.
Q. Do you handle also wool?
A. Yes, sir.
Q. How, if at all, does the substance on the skin, Exhibit 1, differ from wool?
A. Oh, simply in the matter of the fibre. Wool fibre you can pull it apart and it pulls together; has a different feeling and different action entirely; can be spun alone while hair can't.
Q. How about the substance on the skin, Exhibit 1; is that hair or wool? Can that be spun alone?
39 A. (Examining exhibit.) I should say that it was hair.
Q. What leads you to state that it is hair?
A. Simply because it is that sort of fibre and got none of the qualities of wool.
Q. Hasn't it the feel of wool?
A. No, not at all.
Q. Doesn't it have the appearance of wool?
A. No, sir.
Q. What do you use the mocha hair for?
A. We buy it and sell it for further purposes—whatever it can be used for.
Q. Well, what is it used for?
A. Largely, for stuffing purposes.
Q. How largely?
A. Well, practically all that we sell is being sold for that purpose.
Q. Can it be used by itself for spinning purposes?
A. No, sir.
Q. Why not?
A. Because it would not hold together, to make into a yarn.
Q. Do you know if experiments have been made to use it for spinning purposes?
A. Why, I think they have. I think some of it has been used for spinning purposes with other stock to make into yarn. It has never been used successfully for that purpose, to my knowledge.
Q. You say that practically all that you handle is sold for stuffing purposes?
A. Practically all of it, I think.
Q. And never has been bought or sold at wholesale by you under any name other than mocha hair?
A. No, sir.
Q. Is your business confined to this locality, or is it general throughout the country?
A. General throughout the country.
Q. And is that trade nomenclature definite and uniform
40 throughout the United States, or is it partial, local and personal?
A. Never knew it to be called anything else.

Q. Than?
A. Mocha hair.

By Mr. LAWRENCE:

Q. Mr. Parkhurst, do you import these identical goods in large quantities?
A. Don't import them at all.
Q. How have you become familiar with them?
A. Through buying the stock after it has been taken off the skin by the tanners.
Q. You buy merely the leather then?
A. No, we buy the hair.
Q. And don't buy the leather?
A. No, sir.
Q. How do you know that this hair which you get is the hair from the mocha sheep?
A. From seeing it taken off the skins.
Q. By what other names have you ever known it to be called except mocha hair?
A. Never knew it to be called anything else.
Q. Always invoiced, bought and sold by that name?
A. Yes, sir.

By General Appraiser MCCLELLAND:

Q. Do you buy the skins?
A. Yes, sir.
Q. Same as that one before us, or just the hair or wool?
A. Just the hair or wool as it comes off the skin.
Q. Then you are not able to say whether any of these mocha sheep skins have wool on them?
A. I never really see the stock from the tanners. I never knew them to be—I never knew any wool to be pulled from mocha sheep.
41 Q. As I understand, your firm doesn't handle it after pulling?
A. No, sir.
Q. You buy the hair?
A. Yes.
Q. After it is taken from the skin?
A. Yes, sir; everything, get it all that is taken off.
Q. To what different concerns do you sell it after you have pulled it?
A. We sell it to stuffing manufacturers and dealers.
Q. What is the nature of the business of those stuffing manufacturers?
A. They are manufacturers of sweat pads for the saddlery trade, also manufacturers of stuffing goods and dealers.

LAZARUS SIMON, called as a witness on behalf of the Importers, being duly sworn testified as follows:

By Mr. TOMPKINS:

Q. What is your business, Mr. Simon?
A. Wool dealer.
Q. How long have you been engaged in that business?
A. About thirty-five years—forty.
Q. Where?
A. In Germany and in America.
Q. How long in America?
A. About thirty years.
Q. In the course of your business as a wool dealer have you handled merchandise like Exhibit 1?
A. Yes, sir (witness examining exhibit).
42 Q. Please state what the substance on the skin Exhibit 1 is?
A. (Witness examining exhibit). It is hair.
Q. All of it?
A. Yes, sir.

By General Appraiser MCCLELLAND:

Q. Have you dealt in such skins as Exhibit 1?
A. Yes, sir.
Q. That is the condition in which you see it?
A. Yes, sir.

By Mr. TOMPKINS:

Q. Wholesale?
A. I have taken the hair off such skins.
Q. Have you dealt in them wholesale?
A. Not exactly; I occasionally work some. I bought them of a hide man—bought a lot, got cheap enough, took the wool off and sold it.
Q. To whom do you sell merchandise like Exhibit 1?
A. Sell to dealers.
Q. To jobbers, you mean?
A. Jobbers, yes, sir; hair jobbers or wool.
Q. How, if at all, does the substance on the skin Exhibit 1 differ from wool?
A. Wool has a curly fibre and will adhere to each other. This here will separate as you shake it out—will not adhere—that is a hair—and it is all each single state and separate fibre.
Q. Have you ever in the course of your business sold an article like the substance on the skin Exhibit 1 as wool?
A. No, sir.
Q. Always sold it as hair?
A. Yes, sir.
Q. Ever known it to be bought or sold at wholesale in
43 this country under any name other than hair or mocha hair?

A. Mocha hair, hair, mocha hair, that is all what they call it.
Q. Are those the only names under which it is bought or sold?
A. Yes, sir.

By Mr. LAWRENCE:

Q. Are you thoroughly familiar with mocha sheepskins?
A. Yes, sir, I know something about it.
Q. Is that wool, or so-called hair, on them of various qualities?
A. May be short or long.
Q. Have you ever seen any wool or hair on the skin of a mocha sheep which more closely resembles wool than the article before you?
A. No, sir.
Q. You handle this article personally—mocha skins?
A. Yes, sir.
Q. With whom are your dealings mostly? What kind of dealers?
A. What you mean? Hair dealers or wool dealers?
Q. You deal with both hair dealers and wool dealers?
A. Yes. They mostly, the people in the wool business are also in the hair business; sell and buy hair; that is the way.
Q. You handle mocha sheepskins to a large extent?
A. No, not to a large extent. I did occasionally handle mocha skins.
Q. And to what kind of dealers did you dispose of the mocha sheepskins?
A. Wool and hair dealers.
44 Q. Do you know to what purposes they put the article?
A. No, I don't care about that; I couldn't tell the purposes.
Q. Do you think that the fibre of the hair, or wool, Exhibit 1 is capable of being spun?
A. No, sir.
Q. For what reason?
A. Because it would not adhere like wool. If you draw out the wool, it will adhere, each single fibre will adhere. But here you cannot; if you pull the fibres, they will not adhere to each other. So I cannot think you can spin it.
Q. Do you know if it can be combined with other fibres and then be spun?
A. Never heard of it. Such stock they always tell me is going to be used for filling purposes.

By General Appraiser MCCLELLAND:

Q. The question is not what they tell you, but what you know?
A. I do not know anything about that.
Q. Have you handled mocha sheepskins to any great extent?
A. Quite some occasionally.
Q. You don't import any, as I understand it?
A. No, sir.
Q. You buy them here?
A. Buy them here from importers.

Q. Did you ever find a mocha sheepskin that had any wool on it?
A. Never.
Q. When you remove the hair or wool, you sell it just as it comes off the skin?
A. Yes, sir.
Q. You do not make any attempt to separate or to test whether there is any wool in the hair?
45 A. Do not find any use for it, because there is no wool.
Q. Answer my question: You make no effort to separate the substance—whatever it may be—you make no attempt to determine whether it contains any wool, do you?
A. No, sir.
Q. You simply sell it as it comes from the skin?
A. Yes, sir.
Q. And you sell it both to wool and hair dealers, you say?
A. Yes, sir.

ROBERT N. KITCHING, called as a witness on behalf of the Importers, being duly sworn, testified as follows:

By Mr. TOMPKINS:

Q. What is your business, Mr. Kitching?
A. Examiner of wool fibres, and so forth, and skins.
Q. At the port of New York?
A. Yes, sir.
Q. How long have you held that position?
A. About 15 years.
Q. Will you look at Exhibit 1 and state whether or not that fairly represents the mocha sheepskin passed on by you?
A. Yes, sir (witness examining skin).
Q. Is it true that skins like Exhibit 1 were formerly returned by you free, the hair as well as the skin?
A. It was when I first came.
Q. Up to what time?
A. I do not remember the time exactly.
Q. What led you to the change in practice of assessing duty on the substance on skins like Exhibit 1?

46 General Appraiser McClelland excludes the question. Exception allowed.

Q. If the substance like that on the skin Exhibit 1 were on a goat, how would it be returned by you as examiner?
A. Hair of the goat.
Q. Free?
A. Free.
Q. What is the distinction between hair and wool?
A. Oh, there is quite a distinction. Depends on what kind of wool it is. Wool can be run down, deteriorate, to such a condition as this in (pointing to Ex. 1).
Q. Isn't the substance on the skin Exhibit 1 more in the nature of hair than in the nature of wool?

A. It is dead hair mostly, what they call dead hair or kemp.

Q. Can the substance on this skin Exhibit 1 be carded?

A. Yes, can card it, but would not be much left after get through carding it.

Q. You mean it is not commercially suitable for——

A. Drop under the card most.

Q. It isn't commercially suitable for carding?

A. No, sir; not commercially suitable. They can mix it with wool and card it.

By Mr. LAWRENCE:

Q. Are you familiar with all kinds of sheepskins imported here?

A. Practically so.

Q. And you frequently examine and pass upon mocha sheepskins?

A. Yes, sir.

Q. Referring to Exhibit 1 before you, how would you return that article for classification?

A. I would return such as that as wool, sir.

47 Q. Mocha sheepskin with the wool on?

A. Yes, sir.

By General Appraiser MCCLELLAND:

Q. On a skin similar to this Exhibit 1, how do you make your return? What percentage is wool?

A. About ten per cent. Sometimes can be a little higher, according to the sheep, according to the skin.

Q. According to the skin?

A. According to the amount of what I consider wool on the skin.

Q. Is that percentage arrived at because you find wool, or because you do not find wool?

A. Because I find this here which I call wool.

Q. You say it varies in per cent.?

A. Yes, sir.

Q. And when you say that 15 per cent. of it is wool, that means that the other 85 per cent. of it is hair?

A. No, no. I mean when I return a skin for wool, I estimate that it is covered over with wool on the skin.

Q. All the wool on the skin?

A. Yes, on that skin. I examine the skins and throw out the skins that are, I consider dutiable when there is enough wool to call it dutiable. The rest of the skins go out as not dutiable.

Q. Because they have no wool on?

A. Because they are wool like that—short.

Q. Like Exhibit 3?

A. Yes; couldn't be made anything out of that nohow; might possibly make some use of that.

Q. Make some use, you mean, as wool?

A. Well, I do not know whether use it for wool or not; might work it with wool, if they had something to work with it, to hold it, so they got it through the machinery.

Counsel for the Government asks ten days for brief.

48 EXHIBIT E.

S. 3641.

Before the Board of U. S. General Appraisers.

Mocha Sheepskins.

In the Matter of the Protests of GOAT AND SHEEPSKIN IMPORT CO., LTD., 120643, 109459, 120269/70, 113112/16, 113105/6, 111660/1, 118195/6, and 118327.

NEW YORK, *July* 7, 1904.

Before General Appraiser McClelland.

Appearances.

C. D. Lawrence, Esq., Ass't Counsel Treasury Dep't.
J. S. Tompkins, Esq., Counsel for Importers.

A. HELMRATH, called as a witness on behalf of the Importers, being duly sworn, testified as follows:

By Mr. TOMPKINS:

Q. What is your connection with the Goat and Sheepskin Import Company?

A. I am secretary of the company.

49 Q. Are you familiar with all of the importations of the Goat and Sheepskin Import Co.?

A. Yes, sir.

Q. You handle the invoices?

A. Yes, sir. I handle the invoices and I look at the skins, look at the goods.

Q. Do you recall having testified on the hearing of the protests of the Goat and Sheepskin Import Co., 66335-F, &c., on March 17th last?

A. Yes, sir.

Q. Have you examined all of the invoices covered by these protests 120643, &c.?

A. Yes, sir.

Q. Will you please state how the merchandise covered by these protests which are up for hearing to-day compares with the merchandise about which you previously testified and which was the subject of the protests of the Goat and Sheepskin Import Co., 66335-F, &c.?

A. They are identical—in kind, I suppose I should say.

Q. What is the article, or the merchandise covered by the protests?

A. They are mocha hair sheepskins.

Counsel for the importers states that he submits these protests upon

the records and upon the testimony and records connected with the protests upon the records with the protests of the Goat and Sheepskin Import Company, 66335-F, &c.

By Mr. LAWRENCE:

Q. You examined all these invoices, have you?
A. Yes, sir, I looked at them.
Q. All from the same parties?
A. They are all from the same party with the exception of one.
50 Q. And they are known as what—these sheep from which the skins come?
A. As mocha sheep.
Q. Any particular breed?
A. Called mocha whitehead sheep.

EXHIBIT F.

S. 3641.

United States General Appraisers.

Before Board 1.

In the Matter of Protest 66335-F, etc., of GOAT & SHEEPSKIN IMPORT COMPANY Against the Assessment of Duty by the Collector of Customs at the Port of New York, N. Y.

NEW YORK, *July* 21, 1904.

McClelland, General Appraiser:

The merchandise is skins of the mocha sheep returned by the Appraiser for duty only on the basis of the wool found thereon. Said wool was assessed for duty by the Collector as wool, class three, at three cents per pound, under the provisions of paragraphs 358 and 360 of the Tariff Act of 1897. Claims for free entry are made under the provisions of paragraphs 562, 571 and 664 of said act.

The testimony taken on the hearing before the Board on these protests shows that the question involved is the same as that
51 settled in G. A. 4593 (T. D., 21737) and an unpublished decision dated January 31, 1900 (Protest 48188-F, etc.), the latter of which was affirmed upon appeal by the United States Circuit Court for the Southern District of New York, May 27, 1904, in The Abe Stein Company *v.* United States (no opinion filed).

On the hearing in G. A., 4593 (*supra*) there was evidence that the article found on this class of skins—whether called hair or wool—could be carded, and this is substantially confirmed by the testimony of the Examiner (Kitching) in the case before us.

Following the rulings in the cases above cited, and upon the au-

thority of Lyon *et al. v.* Marine (55 Fed. Rep., 964), the protests are overruled and the decisions of the Collector affirmed.

(Signed) W. F. LUNT,
T. S. SHARRETTS,
C. P. McCLELLAND,
Board of U. S. General Appraisers.

EXHIBIT G.

S. 3641.

(21737—G. A. 4593.)

Mocha Sheepskins with the Wool On.

A cheap grade of mixed hair and wool, the product of the Mocha sheep, imported on the skins, is not free of duty under paragraph 664, tariff act of 1897, providing for "skins of all kinds, raw (except sheepskins with the wool on)," but is duitable at 3 cents per
52 pound, under paragraphs 358 and 360 of said act, as wool, class 3. Said merchandise is excepted *eo nomine* from paragraph 664, the skins bearing the wool in question being "sheepskins with wool on," within its terms—Lyon *v.* Marine (55 Fed. Rep., 964), followed.

Before the U. S. General Appraisers at New York.

NOVEMBER 6, 1899.

In the Matter of the Protest, 52496*f*-9233, of LITTAUER BROTHERS against the Decision of the Collector of Customs at New York as to the Rate and Amount of Duties Chargeable on Certain Merchandise Imported per Nomadic and Entered May 31, 1899 (Entry 86418).

Opinion by Somerville, General Appraiser.

The goods in question consist of 520 pounds of mixed wool and hair, which were returned by the local appraiser and assessed by the Collector as wool, class 3, unwashed, at 3 cents per pound under the provisions of paragraphs 358 and 360 of the tariff act of July 24, 1897. The importation as actually made consisted of sheepskins with the wool on. No duty was assessed on the skins, which were passed as free, the quantity and value of the wool having been ascertained under rules prescribed by the Secretary of the Treasury, pursuant to the authority conferred by said paragraph 360.

The claim made in the protest is that the skins, including
53 the wool, are free of duty (1) under paragraph 562 of said act, as fur skins not dressed in any manner, and not specially provided for in said act; or (2) under paragraph 664, which places

on the free list "skins of all kinds, raw (except sheepskins with the wool on)."

The first ground of contention was practically abandoned at the hearing, and, therefore, need not be considered at any length. It is shown by the testimony, and admitted by the importer, that the goods are not fur skins, and are not used or sold as such in the markets of the country. (*In re* Kirby, G. A. 4381.)

The substance of the contention made at the hearing seems to be that the so-called wool, taken from the skins and classified by the collector as wool of the third class, is not in fact wool of any kind, but consists of hair of a very cheap grade. The importer testified that this hair had none of the qualities of the wool fibre; that it was worth in the market between 1 and 2 cents per pound, being injured by the use of lime in removing it from the skins, and that it was used mostly for stuffing purposes, such as filling sweat pads for horse collars and other like uses to which goat hair is put. The appellant, nevertheless, admits in his testimony that the skin from which the so-called hair is removed is the skin of an inferior grade of sheep, known as the Mocha sheep, being of Arabian origin, and that it is " the only sheepskin in the world" which, within his knowledge, could be used for making what is known as morocco.

Other witnesses testified that the article in question is mixed hair and wool, being the product of the Mocha sheep, and that it is used as carpet wool, being substantially identical with East Indian wool of a cheap grade, which is used for like purposes.

The wool examiner at the port of New York testified that in
54 his opinion the article was wool grown on the sheep, and was chiefly used for making the lowest grade of carpets and felts; that the importation really consisted of mixed wool and hair of the sheep, and contained 25 per cent. of wool, the remainder being hair.

A wool importer, engaged in the business for thirty-four years, testified as follows:

Q. Will you please examine the sample in this case and state whether or not you are familiar with articles of that kind?

A. I have not had practical experience in handling these skins, but I have handled similar product with that wool or hair on it. I detect two kinds of fibre here. One is of a wooly nature, and the other known as kemp in the trade—that is, the dead hair.

Q. What is the dead hair owing to?

A. Well, all that low type of animal, wild or half domesticated, are found in the East Indies, on the Himalaya Mountains and South America—in tropical climates where the wool has a tendency to turn to hair.

Q. Do all the wool bearing skins in these climates you have named have that peculiarity?

A. Yes, sir. We have wool here identical with this East Indian wool that is used here for carpet wool, for carpet filling. I am selling domestic product very similar to this for carpet filling.

Q. Is that article hair?

A. No, it is what we would call a carpet-filling wool.

Q. What is that used for?

A. For making carpet yarns.
Q. Could it be carded alone?
A. Yes, it could be carded alone. It is long enough.
Q. Is there any wool in that?
A. Yes, sir; the fibre here is identical with wool, and I should call it so. It is of the wool type.

55 In view of this testimony it is manifest that the skins bearing the wool in question were "sheepskins with the wool on," and were, therefore, excepted *eo nomine* from said paragraph 664 of the free list. The evidence fails to show that the articles are "shearling sheepskins," of the kind held by the Board to be free, *in re* Bloom (G. A. 4300), that decision being based upon the fact that the wool had already been sheared as nearly as was practicable or customary with skins of that kind, so that the quantity remaining on the skin was practically of no commercial value.

Nor is it material that hair of the sheep is mixed with the wool. As said by the Circuit Court of Appeals in Lyon *v.* Marine (55 Fed. Rep., 964, at 966):

The native sheep of the United States, the native sheep of all countries, produce fleeces whose value is depreciated more or less by the undue quantity of hair contained in them sheared from the belly, flanks, and parts of the thighs and arms of the animal. One of the aims in improving native sheep by judicious crossing is to reduce the percentage of this deleterious product. The native sheep of the United States and of all the countries named in paragraph 378, page 594 (class 3), of the Tariff Act of 1890, have a moderate percentage of hair in their fleeces. This is common knowledge, taught by all text books on sheep, and within the judicial cognizance of the Courts. The general facts of natural history are also within the judicial cognizance.

We may add that in establishing standard samples of wool deposited in the principal Custom Houses in the United States, under the authority of the Secretary of the Treasury, as authorized by paragraph 352 of the tariff act of 1897, and analogous paragraphs of previous tariff acts, the principle of classification recognized is rather that of race and blood only, and not of use or adaptability,

56 many wools of the first class being suitable only for carpets, and others are placed in the third class, from which a fair article of clothing could be made (Wool and Wool Manufacturers, 1894, Ford, p. 269).

The protest is accordingly overruled on all grounds and the collector's decision affirmed.

H. M. SOMERVILLE,
J. B. WILKINSON, JR.,
Board of Classification of U. S. General Appraisers.

And for a certified statement of the facts involved in said matter, as ascertained by them, the said Board states that said facts are fully set forth in the decision aforementioned, and that no other facts

were ascertained by said Board than such as are shown by said decision and other exhibits hereto attached.

WILBUR F. LUNT,
CHAS. P. McCLELLAND,
Board of U. S. General Appraisers.
J. E. D.

Endorsed: U. S. Circuit Court. Filed Jan. 7, 1905. Southern District New York. John A. Shields, Clerk.

57 United States Circuit Court, Southern District of New York.

No. 3641.

THE GOAT & SHEEPSKIN IMPORT COMPANY
vs.
THE UNITED STATES.

To the Circuit Court of the United States for the Southern District of New York:

The undersigned, a General Appraiser under the Act of June 10th, 1890, to whom it was referred by this Honorable Court by an order made January 9, 1905, to take further evidence in the above entitled matter, do hereby return such further evidence taken by me pursuant to such order.

Dated, New York, May 4, 1905.

CHAS. P. McCLELLAND,
United States General Appraiser, as an Officer of the Court.

58 United States Circuit Court, Southern District of New York.

No. 3641.

THE GOAT & SHEEPSKIN IMPORT COMPANY
vs.
THE UNITED STATES.

NEW YORK, *April* 14, 1905.

Before Hon. Charles P. McClelland, as Officer of the Court.

Present: J. Stuart Tompkins, Esq., for the Importers. D. Frank Lloyd, Esq., Assistant U. S. Attorney, for The United States.

JOHN G. DUFFY, called as a witness on behalf of the Importers, being duly sworn, testified as follows:

By Mr. TOMPKINS:

Q. What is your occupation?

A. I am a clerk in the office of the Board of General Appraisers.

Q. Have you with you a sample of the merchandise which was the subject of the Board's decision G. A., 4593, T. D., 21737?

A. I have the official exhibit in the case.
Q. Please produce it?
(Witness produces a sample.)
59 Mr. TOMPKINS: I offer this sample in evidence.
Said sample received and marked Illustrative Exhibit A.
It is stipulated that this sample, Illustrative Exhibit A, shall be returned to the office of the Board of General Appraisers upon the final determination of this suit.

BERNARD W. WEILER, called as a witness on behalf of the Importers, being duly sworn, testified as follows:

By Mr. TOMPKINS:

Q. What is your position?
A. I am manager of the Goat & Sheepskin Import Company.
Q. How long have you held that position?
A. For about four years.
Q. What was your occupation prior to that time?
A. I was foreign buyer for the same concern.
Q. For how many years were you a foreign buyer?
A. For about thirteen years.
Q. Where were you located when abroad?
A. I was located in different countries, repeatedly, also in Arabia, and I started their branch house there and stayed three or four times as much as a year at a time.
Q. While acting as foreign buyer have you had occasion to purchase merchandise like Exhibit 1 and Illustrative Exhibit A?
A. Yes, I bought them in large quantities.
Q. Can you tell from personal observation and handling whether or not Exhibit 1 and Illustrative Exhibit A are identical?
A. To the best of my belief they are nothing of the kind.
60 Q. What, if any, is the difference?
A. The difference is that the hair on Exhibit 1 is shorter and of a different nature than this Illustrative Exhibit A. I believe this Exhibit A to be a cut from the belly where the hair is shortest; it would be much longer on the back; if we had an entire skin the hair on the back would be considerably longer; the growth of an animal is always longer on the back than it is on the belly.
Q. Are they taken from the same kind of sheep?
A. No. I believe that Exhibit A is from an entirely different breed of sheep than Exhibit 1.
Q. What is there about Illustrative Exhibit A which leads you to make that statement?
A. Because the growth is longer and as far as I can see from this small piece it comes from a much larger skin, which is called Jeddah wool; whereas Exhibit 1 is called commercially a Hodeida hair sheep.
Q. Is there any difference in the country of origin, the place of origin, of the two skins represented by Exhibit 1 and Illustrative Exhibit A?
A. Yes; the skin of Exhibit A comes from a mountainous country near Jeddah; they come from Mecca, the pilgrim city of Mecca, and

they are much larger sheep; the average weight of the skin and wool would be three and one-half to four pounds; about half of them are white and half of them are black. While the skin represented by Exhibit 1 are all white, and the smaller lighter sheep, the weight of the skin would be only *be* about a pound and a half.

Q. Is Jeddah sheep, the Jeddah wool sheep, that you have referred to, a species of mocha?

A. Yes; it is one of the species of mocha sheep. There are a good many of them.

Q. Have you ever imported the Jeddah sheepskins?

61 A. Certainly, we import them in the regular course of business all the time.

Q. Have you protested on your Jeddah sheepskins?

A. No, sir; we would never think of doing it.

Q. Why?

A. Because I consider that they ought to pay duty on their growth.

Q. Do you consider that the substance on the Jeddah sheepskins is wool of class three, the growth?

A. Yes.

Q. How, if at all, does the growth on the Jeddah sheep differ from the growth on the white haired sheepskin from Hodeida, represented by Exhibit 1?

A. The growth on the Jeddah sheep is longer and might be used for the purposes for which wool is used; while the growth on a Hodeida sheep is short and cannot be used for any purpose where wool is generally used.

Q. How long have you been handling skins of the kinds represented by Exhibit 1 and Illustrative Exhibit A?

A. Really all the time; really for twenty years; since I am in business, about twenty years.

Q. Do you say all of the protests of the Goat & Sheepskin Import Company relate only to the mocha white heads like Exhibit 1 as distinguished from Jeddah?

A. Certainly, decidedly; I mean all the protests in question here.

Q. Do you know what the substance on the skin Exhibit 1 is used for?

A. The buyers always tell me that the only thing it can be used for is for stuffing——

Mr. LLOYD: I move to strike out that answer.

Motion granted.

62 Q. To whom do you sell skins like Exhibit 1?

A. To manufacturers of glove leather and shoe leather.

Q. To whom do you sell Jeddah sheepskins?

A. To manufacturers of glove leather.

Q. You say you have occasion to buy in wholesale quantities and import wool sheepskins as well as the hair sheepskins?

A. Certainly.

Q. You know the difference between hair and wool?

A. Yes.

Q. What is the difference?

A. Well, wool can be used for all kinds of purposes where hair cannot be used.

Q. Does the length of the growth on skins like Exhibit 1 affect the price which you are compelled to pay for them?

A. Most decidedly, because the buyer when he buys skins he calculates on what he can obtain for the growth as well as what the pelt is worth; and I know that the buyers of skins like Exhibit 1 would calculate that they could get nothing at all for the growth; he wouldn't get as much for it as the cost of removing. Whilst on skins similar to Exhibit A he would consider that the growth is worth something, and he would pay more for the skin in consequence.

Q. Do we understand you to testify that you pay less for skins like Exhibit 1 with longer hair or growth on than you do for skins with shorter hair?

A. I don't quite understand the question.

Q. (Question repeated.)

A. No; the hair is never long enough, the growth is never long enough to be worth anything to the manufacturer. Let me qualify that——

63 By the REFEREE:

Q. The question is whether you pay in buying any more for a skin like Exhibit 1 with long hair than you would if it had short hair?

A. No, sir.

By Mr. TOMPKINS:

Q. How do you buy skins like Exhibit 1, by weight of the pelt and the growth together or by the thousand?

A. We don't take any notice as to the growth, because we get no value for it; our only consideration in buying it is the value of the pelt.

Cross-examination by Mr. LLOYD:

Q. Please state the difference between what is known as wool and hair?

A. The hair is rather coarse and won't card; it can only be used for stuffing and such purposes; whilst wool can be used for all kinds of purposes and is much more valuable.

Q. What is the difference in the fiber, in the physical appearance of the fiber, of wool and hair, if any?

A. Hair is harsh and short; whilst wool has got certain lengths and has a silky feel, more silky feel.

Q. Isn't it a fact that some of the growth on Exhibit No. 1 is quite as long as the growth on Illustrative Exhibit A?

A. This Exhibit A is only a small cut from the belly, and if we had the entire skin before us we would find much longer wool at the back.

Q. Can you state from an examination of that small Exhibit A

that you hold in your hand, that it is not taken from the back of the sheep?

A. I think I can.

Q. What is there about it to show that it is taken from the belly and not from the back?

64 A. Because it is very thin; if it was on the back the pelt would be thicker.

Q. Can you state that the skin on the back of that sheep was thicker than the skin on the belly in the same sheep?

A. To the best of my belief I would. I have been in business for a good many years, and I always found the skins on the belly to be much thinner than on the back.

Q. Can the growth on Exhibit 1 be carded?

A. No, to the best of — belief not, because I am not in the wool business.

Q. You cannot state positively that the growth on Exhibit 1 cannot be carded?

A. I am not in the wool business, I always heard that to the best of my belief it could not.

Q. Can you state what the growth on Exhibit 1 is used for?

A. It is used for stuffing.

Q. Isn't it used for making a yarn for carpets?

A. I never heard that it is.

Q. Do you state that it is not so used?

A. Of course I am not a wool man. To the best of my belief, my understanding, it is not.

Q. Now, isn't it a fact that the growth on Exhibit 1 is a species of wool?

A. I decidedly say not.

Q. Why not?

A. Because it has got the characteristics of hair. Goat hair would be worth more than that, would be finer.

By the REFEREE:

Q. Name the firms to whom you sold skins like Exhibit 1?

A. Several firms.

Q. Name them?

A. For shoe purposes, Charles L. Klauder of Philadelphia.

65 Now, you want to know for glove purposes: Levor & New, of New York City and Gloversville, George Mandril of Gloversville.

Q. To whom do you sell skins like Illustrative Exhibit A?

A. At present not many of them come to the United States, because Europe pays much better prices for them.

Q. How long since your firm imported any of them?

A. I think about two years ago.

Q. To whom did you sell them?

A. I sold them to a wool puller in Philadelphia, Reinicke of Philadelphia.

Q. I thought I understood you to say that you sold them to glove makers?

A. I forgot to mention that we also sold it to wool pullers.
Q. What glove makers did you sell them to?
A. I really don't remember off-hand, because it is so long that we didn't import them, with the exception of one lot; I remember that we sold them to a wool puller.

GEORGE B. RITCHIE, called as a witness on behalf of the Importers, being duly sworn, testified as follows:

By Mr. TOMPKINS:

Q. What is your business?
A. Wool and hair importer; importer and dealer in wools and hairs; 55 Ferry Street.
Q. What is the title of your firm?
A. George B. Ritchie.
Q. How long have you been engaged in that business?
A. About twenty years.
66 Q. Do you import and sell both wool and hair in wholesale quantities?
A. Yes, sir.
Q. Is your business local or does your market extend throughout the country?
A. We sell all over the country and buy all over the world, that is, we buy hairs and wools all over the world.
Q. Please examine the growth on Exhibit 1 and state what, in your opinion, that is?
A. Well, to the best of my knowledge and belief we would call that a goat hair; valued washed and cleaned at four and one-half to five cents a pound.
Q. Is the value you have just given, its value after it has been removed from the skin?
A. Removed and washed clean. It is not a desirable hair for working purposes.
Q. For what commercial purpose is a growth like that on Exhibit 1 suitable?
A. If it has any quality of colors in it, it goes into stuffing; it is washed and put into horse collar pads; and if it runs pretty white it is sometimes used in these low carpet yarns, where they put in such stuff as jute bagging is made of and some hair like this on Exhibit 1. The yarn itself sells for six and a half to seven cents a pound.
Q. Is this growth on Exhibit 1 suitable for carding purposes?
A. No; you couldn't do anything with it absolutely; they wouldn't anybody buy it; it is a stock that has little or no value. In the first place, it is all dead hair; it is of no value.
Q. If you were informed that the growth on Exhibit 1 is a growth on a mocha whitehead sheep skin as distinguished from a goat skin, would that affect your answer in regard to the value of the material?
A. No; we would simply call it a low goat hair. It wouldn't make any difference what the other man called it.

67 Q. Would not this growth on Exhibit 1 be a good delivery on an order for low grade wool?

A. No, sir.

Q. Why?

A. Because it is not commercially known as wool by the people that use it; you can't go around and sell that to these woolen manufacturers and tell them it is wool; they would give you the laugh.

Cross-examination by Mr. LLOYD:

Q. Can you state that that Exhibit 1 is not in fact a sheepskin?

A. To the best of my knowledge and belief that is not commercially sheep hair or wool; they can call it sheepskin if they please, but commercially in my trade it is not a sheep's wool; it is a goat hair.

Q. It can be carded, can it not?

A. If a man wants to throw away money; there wouldn't be any money in carding stuff like that.

Q. Couldn't you card it and make a carpet yarn of it?

A. It can be adulterated and made into a low yarn, what is known as car wheel stuffings, and the bagging that comes around cotton is used too they run it all in and make as low a yarn as they possibly can. But for carpet purposes it would be undesirable from the fact that it is all kemp and won't take any dye.

Q. What is the distinguishing feature of kemp?

A. It is a dead hair. You will find it in the only wool that I know of that is classed as wool, what is known as mawah.

Q. You find a certain amount of kemp in hair and wool skins, do you not?

A. Yes, a small per cent.; depends on what wool it is.

Q. You say there is no wool at all on that skin, Exhibit 1?

68 A. Not as I would know it commercially, as being a hair dealer and low grade wool dealer.

Q. There are different kinds and classes and grades of wool, are there not?

A. Hundreds of classes and grades. But I wouldn't have the nerve to offer that (referring to growth on Exhibit 1) to any man as wool.

Q. What is the difference between the substance or the growth on Exhibit 1 and Illustrative Exhibit A?

A. Of course, when I am speaking I am speaking merely from the hair end of it; we would take this stock and wash it and sell it; while Exhibit A is considerably better stuff and it don't seem to have the percentage of kemp in it that the other has and this stock would probably bring in the neighborhood of ten to ten and a half cents.

By the REFEREE:

Q. Regardless of its value, do you find anything in Exhibit A which you recognize as wool?

A. Well, I could stretch my conscience to say that it was wool.

Q. Without stretching your conscience?

A. I think we might call it a wool, but it is commercially known —all that grade of stuff is hair.

By Mr. LLOYD:

Q. That is, Illustrative Exhibit A is known as hair?
A. Yes; but it would be worth double the value of Exhibit 1.
Q. Then, in other words, both Illustrative Exhibit A and Exhibit 1 are in your judgment hair?
A. Commercially speaking.
Q. But Illustrative Exhibit A is a finer quality of hair than Exhibit 1?

A. And a readily marketable commodity; while Exhibit
69 1 would be a very difficult hair to sell at any price.

Q. They are both hairs, but Exhibit A is worth double of what Exhibit 1 is worth?
A. According to my judgment in hairs.
Q. Illustrative Exhibit A, is that from a goat or a sheep?
A. Well; I don't know what it is from; I don't know what the skin is commercially known as; but the product, the hair or wool part of it, would be commercially known as a goat hair.

By the REFEREE:

Q. You don't deal in skins at all?
A. We deal in wool and hair.

By Mr. LLOYD:

Q. After they have been removed from the skin?
A. After they have been removed from the skin.

Importers rest.
Adjourned.
Government rests.
Testimony closed.

Endorsed: U. S. Circuit Court. Filed May 4, 1905. Southern District, New York. John A. Shields, Clerk.

70 United States Circuit Court, Southern District of New York.

No. 3641.

GOAT AND SHEEPSKIN IMPORT COMPANY
vs.
THE UNITED STATES.

Appeal from a decision of the Board of United States General Appraisers.

TOWNSEND, *Chief Judge:*

The merchandise in controversy consists of mocha white-head sheepskins from which the coat had not been removed at the time of importation. They were assessed for duty at three cents per pound

under the provisions of paragraph- 351, 358 and 360 of the Act of 1897 as wools of the third-class on the skin, and were claimed to be free under the provisions of paragraph 664 of said Act as "skins of all kinds, raw (except sheepskins with the wool on)," &c. The sole question presented is whether these skins have wool on or hair only. The Board of General Appraisers reached the conclusion that a certain percentage of the covering was wool, and therefore that the skins were sheepskins with the wool on within the meaning of the tariff act. Inasmuch as there was sufficient evidence to support the finding of the Board as to the fact of wool upon the skins, and as the Court upon examination of the sample is unable to say that this finding is incorrect, and as the definitions in the encyclopædias and dictionaries support the claim that such a product is wool although
71 of a low order, the decision of the Board of General Appraisers is affirmed.

J. Stuart Tompkins, for the Importers.
D. Frank Lloyd, Ass't U. S. Attorney, for the United States.

(Endorsed:) Suit No. 3641.—United States Circuit Court, Southern District of New York.—Goat & Sheepskin Import Company *vs.* The United States.—Opinion, Townsend, C. J.—U. S. Circuit Court, Southern District of New York.—Filed May 19, 1905.—John A. Shields, Clerk.

At a Stated Term of the Circuit Court of the United States of America for the Southern District of New York, held at the United States Circuit Court Rooms in the Post Office Building in the City of New York, on the 26th day of May, in the year of our Lord one thousand nine hundred and five.

Present: The Hon. William K. Townsend, Circuit Judge.

"A," Suit No. 3641.

GOAT & SHEEPSKIN IMPORT CO.
vs.
UNITED STATES.

The above cause coming on for hearing and determination before this Court on the application of Goat and Sheepskin Import
72 Co., importers, for a review of the questions of law and fact involved in the decisions of the Board of U. S. General Appraisers herein, and on the return of the Board of General Appraisers of the record and evidence taken by them, with their certified statement of the facts involved therein, together with their decisions thereon,

Now, after hearing D. Frank Lloyd, Assistant U. S. Attorney on behalf of the Collector, for affirmance, and Hatch, Keener & Clute, Esqs., counsel for the said importers, for reversal, on motion of Henry L. Burnett, U. S. Attorney,

It is ordered, adjudged and decreed, that there was no error in said proceedings before said Board of General Appraisers, and that

their decisions herein be and the same are hereby in all things affirmed.

WM. K. TOWNSEND,
U. S. Circuit Judge.

(Endorsed:) "A" Suit No. 3641.—U. S. Circuit Court, Southern District of New York.—Goat & Sheepskin Import Co. *vs.* United States.—Judgment of Affirmance.—Henry L. Burnett, U. S. Attorney.—U. S. Circuit Court, Southern District of New York.—Filed May 29, 1905.—John A. Shields, Clerk.

73 United States Circuit Court, Southern District of New York.

Suit No. 3641.

GOAT & SHEEPSKIN IMPORT CO., Appellant,
against.
THE UNITED STATES, Appellee.

Application for Allowance of Appeal.

To the Honorable Judges of said Court:

The petition of the Goat & Sheepskin Import Co., a corporation organized under the laws of the State of New York, doing business at No. 28 Spruce street, in the City of New York, prays that the petitioner may be allowed by its attorneys, Hatch, Keener & Clute, an appeal to the United States Circuit Court of Appeals, for the Second Circuit, from the decree passed and the judgment entered in pursuance thereof in this case, on the 26th day of May, 1905, affirming the decision of the Board of United States General Appraisers, which overruled the protests of the importers; and that a proper citation may be issued and served upon Nevada N. Stranahan, Collector of Customs at the Port of New York, or his attorneys; and that the record of said decree and judgment, and all papers relating thereto shall be transmitted to said United States Circuit Court of Appeals, for the Second Circuit, in order that the said decree may be re-
74 viewed and reversed by said United States Circuit Court of Appeals.

HATCH, KEENER & CLUTE,
Attorneys for Appellant, No. 100 Broadway, New York City.

Allowed.
E. H. LACOMBE,
United States Circuit Judge.

(Endorsed:) United States Circuit Court, Southern District of New York. Goat & Sheepskin Import Co., Appellant, against The United States, Appellee. Suit No. 3641. Application for Allowance of Appeal. Heath, Keener & Clute, Att'ys for Appellant, 100 Broadway, N. Y. City. A copy of the within paper has been this day

received at this office. Jun. 23, 1905. Henry L. Burnett, U. S. Attorney. U. S. Circuit Court, Southern District of New York. Filed Jun. 23, 1905. John A. Shields, Clerk.

75 United States Circuit Court, Southern District of New York.

Suit No. 3641.

GOAT AND SHEEPSKIN IMPORT COMPANY, Appellant,
against
THE UNITED STATES, Appellee.

Assignment of Errors.

The Goat & Sheepskin Import Company, a corporation organized under the Laws of the State of New York, doing business at No. 28 Spruce street, in the City of New York, hereby assigns error to the decision and judgment of the Circuit Court of the United States, for the Southern District of New York, in the following particulars:

I. The United States Circuit Court, for the Southern District of New York, erred in affirming the decision of the Board of United States General Appraisers herein.

II. The Court erred in not reversing the decision of the Board of United States General Appraisers.

III. The said Court erred in holding that the Board of General Appraisers reached the conclusion that a certain percentage of the covering was wool.

76 IV. The said Court erred in holding that there was sufficient evidence to support the finding of the Board as to the fact of wool upon the skins.

V. The said Court erred in not holding that there was no evidence in this case to support any finding of fact that the substance or growth on the skins in question consisted of wool.

VI. The said Court erred in not holding that according to the great weight and preponderance of the evidence in this case, the substance or growth on the skins in question consisted of "hair," as distinguished from "wool."

VII. The said Court erred in holding that the definitions in the encyclopædias and dictionaries support the claim that the substance or growth on the skins in controversy is "wool," and said Court erred in not holding that the definitions in the encyclopædias and dictionaries support the claim of the appellant that the substance or growth on the skins in question is "hair."

VIII. The said Court erred in finding, either directly, or by implication, that the substance on the skins in question was "wool," and in not finding on the contrary that it was "hair."

IX. The said Court erred in not finding that the evidence in this case was unanimous, uniform, undisputed and uncontroverted that the substance on the skins in question consisted of "hair," as distinguished from "wool," both as a matter of fact, and according to trade and commercial usage.

X. The said Court erred in holding, either directly, or by implication, that the merchandise in question was of the same character as that which was the subject of G. A. 4593, and in not holding to the contrary.

77

XI. The said Court erred in not holding that the Board erred in excluding the question on page 45, which was asked of the Government Wool Examiner, Robert N. Kitching, as follows:

"Q. What led you to the change in practice of assessing duty "on the substance on skins like Exhibit 1?"

and in not holding that importers' exception to that ruling was valid, and warranted a reversal of the Board's decision.

XII. The said Court erred in holding that the substance on the said skins was classifiable and dutiable as assessed, at three cents per pound under the provisions of paragraphs 351, 358 and 360 of the Tariff Act of July 24, 1897, as "wools of the third-class on the skin."

XIII. The said Court erred in not holding that the merchandise in controversy was entitled to free entry under the provisions of paragraph 664 of said act, covering

"skins of all kinds, raw (except sheepskins with the wool on) and "hides not specially provided for in this act."

XIV. The said Court erred in not holding that the substance on the skins in question was free of duty under the provisions of paragraph 571 of said Act, if not entitled to free entry under the provisions of paragraph 664, said paragraph 571 reading:

"Hair of horse, cattle, and other animals cleaned or un-
78 "cleaned, drawn or undrawn, but unmanufactured, not "specially provided for in this Act; and human hair, raw, "uncleaned, and not drawn."

XV. The said Court erred in holding, either directly, or by implication, that the question involved was the same as that settled in G. A. 4593.

XVI. The said Court erred in not distinguishing G. A. 4593, and in not distinguishing Lyon *v.* Marine, 55 Fed. Rep., 964.

Dated New York, June 22d, 1905.

HATCH, KEENER & CLUTE,
Attorneys for Appellant, No. 100 *Broadway,*
Manhattan Borough, New York City.

(Endorsed:) United States Circuit Court, Southern District of New York.—Goat and Sheepskin Import Company, Appellant, ag'st The United States, Appellee. Suit No. 3641.—Assignment of Errors.—Hatch, Keener & Clute, Att'ys for Appellant, 100 Broadway, N. Y. City.—U. S. Circuit Court, Southern District of New York.—Filed Jun- 22, 1905.—John A. Shields, Clerk.

Know all men by these presents, That I, Frederick W. Acton, residing at No. 121 St. Nicholas avenue, in the City of New York, am held and firmly bound unto the United States of America in the sum of two hundred and fifty ($250) dollars, to be paid to the

United States of America, for the payment of which, well and
79 truly to be made, I bind myself, my heirs, executors and administrators, firmly by these presents.

Sealed with my seal and dated the 22d day of June, in the year nineteen hundred and five.

Whereas, The Goat & Sheepskin Import Co. has applied to the United States Circuit Court of Appeals, for the Second Circuit, for the allowance of an appeal from the decision of the United States Circuit Court, for the Southern District of New York, rendered on the 29th day of May, 1905, in an action of said Goat & Sheepskin Import Co. against the United States.

Now, therefore, the condition of this obligation is such that if the said Goat & Sheepskin Import Co. shall prosecute said appeal with effect and shall answer all costs of the appeal which may be awarded against them if they fail to make good said appeal, then the obligation shall be void; otherwise to remain in full force and effect.

F. W. ACTON.

Sealed and delivered and taken and acknowledged this 22d day of June, 1905.

CHAS. T. FISH,
[SEAL.] *Notary Public, New York County.*

UNITED STATES OF AMERICA,
Southern District of New York, County of New York, ss:

Frederick W. Acton, being duly sworn, says: That he resides in the Southern District of New York, in the City of New York, and that he is worth the sum of two hundred and fifty ($250)
80 dollars over and above all his just debts and liabilities.

F. W. ACTON.

Sworn to before me this 22d day of June, 1905.

CHAS. T. FISH,
[SEAL.] *Notary Public, New York County.*

Approved.
E. H. LACOMBE,
U. S. Circuit Judge.

(Endorsed:) United States Circuit Court, Southern District of New York.—Goat & Sheepskin Import Co., Appellant, against The United States, Appellee.—Bond.—Hatch, Keener & Clute, Att'ys for Appellant, 100 Broadway, N. Y. City.—U. S. Circuit Court, Southern District of New York.—Filed Jun- 22, 1905.—John A. Shields, Clerk.

By the Honorable E. Henry Lacombe, one of the Judges of the Circuit Court of the United States for the Southern District of New York, in the Second Circuit, to Nevada N. Stranahan, as Collector of the Port of New York, on behalf of the United States, Greeting:

You are hereby cited and admonished to be and appear before a United States Circuit Court of Appeals for the Second Circuit, to be holden at the Borough of Manhattan, in the City of New York, in the District and Circuit above named, on the 19th day of
81 July, 1905, pursuant to an appeal filed in the Clerk's Office of the Circuit Court of the United States for the Southern District of New York, wherein Goat & Sheepskin Import Co. is appellant and the United States is Appellee to show cause,if any there be, why the judgment in said appeal mentioned should not be corrected and speedy justice should not be done in that behalf.

Given under my hand at the Borough of Manhattan,,in the City of New York, in the District and Circuit above named, this 21st day of June, in the year of our Lord one thousand nine hundred and five, and of the Independence of these United States the one hundred and twenty-ninth.

E. H. LACOMBE,
Judge of the Circuit Court of the United States for Southern District of New York, in the Second Circuit.

(Endorsed:) United States Circuit Court of Appeals, for the Second Circuit.—Goat & Sheepskin Import Co., Appellant, *vs.* The United States, Appellee.—Citation.—Hatch, Keener & Clute, Att'ys for App'l't, 100 Broadway, N. Y. City.—A copy of the within paper has been this day received at this office. June 23, 1905, Henry L. Burnett, U. S. Attorney.—U. S. Circuit Court, Southern District of New York.—Filed Jun- 23, 1905.—John A. Shields, Clerk.

UNITED STATES OF AMERICA, *Southern District of New York, ss:*

I, John A. Shields, Clerk of the Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit, do hereby certify that the foregoing pages, numbered
82 from one to eighty-one, inclusive, contain a true and complete transcript of the record and proceedings had in said Court, in the cause entitled Goat & Sheepskin Import Company, Appellant, against The United States, Appellee (No. 3641), as the same remain of record and on file in my office.

In testimony whereof, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, in the Second Circuit, this 19th day of July, in the year of our Lord one thousand nine hundred and five and of the Independence of the said United States the one hundred and thirtieth.

[L. S.] JOHN A. SHIELDS, *Clerk.*

83 United States Circuit Court of Appeals for the Second Circuit.

No 133, October Term, 1905.

Argued February 23, 1906; Decided February 26, 1906.

(3641.)

THE GOAT AND SHEEPSKIN IMPORT COMPANY, Appellant,
vs.
THE UNITED STATES, Appellee.

Appeal from the Circuit Court of the United States for the Southern District of New York.

Before Judges Lacombe and Coxe.

Affirmed on the opinion of the Circuit Court.

J. S. Tompkins, for the Appellant.
D. Frank Lloyd, Assistant United States Attorney, for the Appellee.

84 At a Stated Term of the United States Circuit Court of Appeals, in and for the Second Circuit, held at the Court Rooms in the Post Office Building in the City of New York, on the 7th day of March one thousand nine hundred and six.

Present: Hon. E. Henry Lacombe, Hon. Alfred C. Coxe, Circuit Judges.

(3641.)

GOAT AND SHEEPSKIN IMPORT COMPANY, Appellant,
vs.
UNITED STATES, Appellee.

Appeal from the Circuit Court of the United States for the Southern District of New York.

This cause came on to be heard on the transcript of record from the Circuit Court of the United States, for the Southern District of New York, and was argued by counsel.

On consideration whereof, it is now hereby ordered, adjudged and decreed that the decree of said Circuit Court be and it hereby is affirmed.

It is further ordered that a Mandate issue to the said Circuit Court in accordance with this decree.

E. H. L.

85 [Endorsed:] United States Circuit Court of Appeals, Second Circuit. Goat & Sheepskin Co. *vs.* U. S. Order for Mandate. United States Circuit Court of Appeals, Second Circuit. Filed Mar. 7, 1906. William Parkin, Clerk.

86 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, William Parkin, Clerk of the United States Circuit Court of Appeals for the Second Circuit, do hereby Certify that the foregoing pages, numbered from 1 to 85 inclusive, contain a true and complete transcript of the record and proceedings had in said Court, in the case of Goat & Sheepskin Import Co. against United States, as the same remain of record and on file in my office.

In testimony whereof, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, in the Second Circuit, this 9th day of April, in the year of our Lord One Thousand Nine Hundred and Six and of the Independence of the said United States the One Hundred and thirtieth.

[Seal United States Circuit Court of Appeals, Second Circuit.]

WM. PARKIN, *Clerk.*

87 UNITED STATES OF AMERICA, *ss:*

[Seal of the Supreme Court of the United States.]

The President of the United States of America to the Honorable the Judges of the United States Circuit Court of Appeals for the Second Circuit, Greeting:

Being informed that there is now pending before you a suit in which The Goat & Sheepskin Import Company is appellant and The United States is appellee, which suit was removed into the said Circuit Court of Appeals by virtue of an appeal from the Circuit Court of the United States for the Southern District of New York, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said Circuit Court of Appeals and removed into the Supreme Court of the United
88 States, Do hereby command you that you send without delay to the said Supreme Court, as aforesaid, the record and proceedings in said cause, so that the said Supreme Court may act thereon as of right and according to law ought to be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the first day of May, in the year of our Lord one thousand nine hundred and six.

JAMES H. McKENNEY,
Clerk of the Supreme Court of the United States.

89 [Endorsed:] File No. 20,206. Supreme Court of the United States. No. 704, October Term, 1905. The Goat & Sheepskin Import Co., *vs.* The United States. Writ of Certiorari. United States Circuit Court of Appeals, Second Circuit. Filed May 2 1906 William Parkin, Clerk.

90 United States Circuit Court of Appeals for the Second Circuit.

Suit No. 3641.

THE GOAT AND SHEEPSKIN IMPORT COMPANY, Appellant,
vs.
THE UNITED STATES, Appellee.

Stipulation.

It is hereby stipulated and agreed by and between the attorneys for the respective parties in the above entitled suit that the certified transcript of record on file in the office of the Clerk of the Supreme Court of the United States, may be taken as a return to the writ of certiorari herein dated May 1st, 1906, issued out of the said Supreme Court to the Honorable the Judges of the United States Circuit Court of Appeals, for the Second Circuit.

Dated, New York, May 2nd, 1906.

HATCH, KEENER & CLUTE,
Attorneys for Appellant.
HENRY L. STIMSON,
Per D. F. L.,
Attorney for Appellee.

Endorsed: U. S. Circuit Court of Appeals, for the Second Circuit The Goat and Sheepskin Import Company, Appellant, against the United States, Appellee. Stipulation. Hatch & Clute, att'ys for Appellant, 100 Broadway N. Y. City. United States Circuit Court of Appeals, Second Circuit. Filed May 2, 1906. William Parkin, Clerk.

91 To the Supreme Court of the United States, Greeting:

The record and all proceedings whereof mention is within made having been lately certified and filed in the office of the Clerk of the Supreme Court of the United States, a copy of the stipulation of counsel is hereto annexed and certified as a return to the writ of certiorari issued herein.

[Seal United States Circuit Court of Appeals, Second Circuit.]

WM. PARKIN,
Clerk of the United States Circuit Court of Appeals for the Second Circuit.

92 [Endorsed:] 704 20206 United States Circuit Court of Appeals, Second Circuit. Goat & Sheepskin Co. *v.* U. S. Return to Certiorari.

93 [Endorsed:] File No. 20,206. Supreme Court U. S., October Term, 1905. Term No. 704. The Goat & Sheepskin Import Co., petitioner, *vs.* The United States. Writ of Certiorari and return. Filed May 9", 1906.